IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.33370 of 2007
RAVI BHUSHAN RAI @ RAVI BHUSHAN
Versus
STATE OF BIHAR & ANR
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5 22.8.2008 This application under Section 482 of the Code of Criminal Procedure has been field for quashing of the order of cognizance dated 23.3.2007 passed by the Chief Judicial Magistrate, Saran at Chapra in Awtar Nagar P.S.case No.86 of 2006, G. R. Case No.2660/2006 thereby the petitioner along with two others have been summoned under Sections 341, 324, 323 and 379/34 of the Indian Penal Code.

Heard learned counsel for the petitioner. No-one appears on behalf of opposite party no.2 in spite of valid service of notice.

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Submission of learned counsel for the petitioner is that the entire case is false and baseless. The learned Chief Judicial Magistrate has taken cognizance without application of mind. The police after investigation not only submitted final form in the case but also recommended for taking action under Section182 and 211 of the Indian Penal Code against the informant. However, in spite of that the learned Chief Judicial Magistrate without going into the materials available in the case diary has taken cognizance. It is further submitted that the petitioner is a student and on the alleged date of occurrence i.e. 8.9.2006 he was in Japan in connection with his research work. In support of it the petitioner has filed annexures 7 to 13.

Considered the submission of learned counsel for the petitioner and also perused the impugned order along with annexures.

On perusal of annexures it appears that the petitioner obtained passport on 26.9.2003 and visa was obtained on 23.3.2005 for two years. He left for Japan on 5th of April, 2005 for two years. The petitioner reached Osaka on 6th April, 2005 and joined Osaka University on 7th April, 2005 as research student. The petitioner is still in Japan.

From the above documents it is quite apparent that the entire case is false and baseless. Even on the alleged date of the occurrence the petitioner was not in India.

In the result, this application is allowed and the impugned order taking cognizance dated 23.3.2007 in respect of this petitioner is hereby quashed.

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B.Jha **(Ghanshyam Prasad)**